

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)
v.) 02: 07-cr-0033
JOSEPH DOUGLAS WILLIAMS)

ORDER OF COURT

Presently before the Court is the NUNC PRO TUNC MOTION TO CLARIFY 18-MONTHS INCARCERATION CREDIT filed *pro se* by Defendant, Joseph Douglas Williams (Document No. 80).

On May 22, 2008, Defendant pled guilty to Count One of a Superseding Indictment which charged him with Possession of a Firearm By a Convicted Felon, in violation of Title 18, United States Code, section 922(g)(1). On August 20, 2008, Defendant was sentenced by this Court to a term of imprisonment of Seventy-Seven (77) months, to be followed by three (3) years supervised release. Defendant filed a timely Notice of Appeal to the United States Court of Appeals for the Third Circuit. On March 23, 2009, the Court of Appeals entered an Order dismissing the appeal pursuant to Federal Rule of Appellate Procedure 42(b) in accordance with the agreement of the parties.

On March 26, 2010, Defendant filed the instant motion in which he seeks “credit for his incarceration time spent from March 23, 2007, through August 22, 2008, totalling eighteen (18) months.”¹ Mot. at ¶ 3. Defendant cites no statutory basis for the relief he has requested.

¹ According to Defendant, on March 23, 2007, he was transported from Greene County State Prison to the Allegheny County Jail “under federal holding status.” Approximately a year later, on March 7, 2008, he was then transferred to Northeast Ohio Correctional Center in Youngstown, Ohio, where he stayed until he was sentenced in August 2008. Mot. at ¶ 1.

Defendant states, however, that he has written several letters and has made inquiries to the Bureau of Prisons. "However, this court has sole authority to adjust, amend or otherwise allow him to gain credit for the time he has spent in federal custody." *Id.*

Because Defendant has challenged the manner in which his sentence was executed and not the validity of his sentence, the United States Court of Appeals for the Third Circuit has explained that the relief Defendant seeks is exclusively available under 28 U.S.C. § 2241. *See Coady v Vaughn*, 251 F.3d 480, 485 (3d Cir. 2001) (stating that § 2241 is the only statute that confers habeas jurisdiction to hear a federal prisoner's challenge to the execution of his sentence.").

As our appellate court has explained, a claim for pre-sentence credit involves the computation of time served, which is an administrative rather than a judicial responsibility and is unrelated to the sentencing process. *Soyka v. Alldredge*, 481 F.2d 303, 304-05 (3d Cir. 1973). *See also United States v. Grimes*, 641 F.2d 96, 99 (3d Cir. 1981) (noting proper avenue for seeking credit on federal sentence for time spent in state custody prior to trial would be under § 2241).

The United States Supreme Court has instructed that a petition brought under § 2241 must be filed in the district in which the prisoner is confined. *Rumsfield v. Padilla*, 542 U.S. 426, 442-43 (2004). Defendant is confined at FCI Cumberland in Cumberland, Maryland, which is located within the jurisdiction of the United States District Court for the District of Maryland. Thus, the United States District Court for the Western District of Pennsylvania lacks jurisdiction to consider Defendant's motion.

Accordingly, the Nunc Pro Tunc Motion to Clarify 18-Months Incarceration Credit is **DISMISSED WITHOUT PREJUDICE** to Defendant refiling his motion in the District of Maryland.

Furthermore, the Text Order of March 29, 2010, which required the government to respond to the Motion is hereby **VACATED as MOOT**.

So **ORDERED** this 30th day of March, 2010.

BY THE COURT:

s/Terrence F. McVerry
United States District Court Judge

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